

9.06-cv-1504
LEK/DED

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>Northern</u>
Name <u>Kalief R. Stanley</u>	Prisoner No. <u>01A3643</u>	Case No. <u>13-78</u>
Place of Confinement		<div style="border: 2px solid black; padding: 5px; text-align: center;"> FILED DEC 15 2006 US DISTRICT COURT - N.D. OF N.Y. </div>
Name of Petitioner (include name under which convicted) <u>Kalief R. Stanley</u> v. <u>R. Woods</u> Name of Respondent (authorized person having custody of petitioner) <u>AT O'CLOCK</u> <u>Lawrence K. Baerman, Clerk - Syracuse</u>		
The Attorney General of the State of: <u>New York</u>		

PETITION

1. Name and location of court which entered the judgment of conviction under attack

Albany County (Albany N.Y.)Supreme Court

2. Date of judgment of conviction

March 16 2001

3. Length of sentence

25 years Determinate

4. Nature of offense involved (all counts)

5. What was your plea? (Check one)

(a) Not guilty ☒(b) Guilty ☐(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☒(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

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9. If you did appeal, answer the following:

- (a) Name of court Appellate Division 3rd Department
- (b) Result Affirmed
- (c) Date of result and citation, if known November 3, 2005
- (d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court Court of Appeals
- (2) Result Affirmed
- (3) Date of result and citation, if known _____
- (4) Grounds raised Same AS Above

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Name of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result _____

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐(2) Second petition, etc. Yes ☒ No ☐(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Defendant was denied effective ~~Assist~~ ASS. stance of Counsel.

Supporting FACTS (state briefly without citing cases or law):

First Counsel did not object to the hearsay testimony of Willie Jackson. The defendant cannot confront oral statements by Jackson. ~~The defendant~~ When the prosecution does not call him as a witness. There is a police report where Jackson Apologized to the two victims and states their Getting Shot is all his fault. Secondly Counsel did not effectively cross examine Adams (See plea allocution and trial minutes)

B. Ground two: The defendant sentence was Harsh and Excessive

Supporting FACTS (state briefly without citing cases or law):

The defendant sentence was Harsh and Excessive because Defendant was sentence to the maximum term of 25 years on each Count (Ran concurrently) plus the 5 years post release supervision would supercede the Sentencing Guidelines. The defendant cannot be found guilty of intentional ASSAULT and Reckless ASSAULT for one Act. Therefore sentence must be Modified

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- C. Ground three: The prosecution failed to reveal a promise of leniency to a witness

Supporting FACTS (state briefly without citing cases or law): Here Donald Lewis

stated he was not given consideration for his testimony. Lewis was incarcerated prior to the defendant's Grand Jury hearing. He testified at Defendant's Grand Jury on Oct. 6, 2000 and on that same day he was released from custody which he admitted at the defendant's trial

- D. Ground four: Defendant's guilt was not proven beyond a reasonable doubt.

Supporting FACTS (state briefly without citing cases or law): Reggie Adams tailored

his testimony to distance himself from the crimes. The prosecutor allowed Adams to testify to distorted facts. Adams testified he didn't have a gun (see plea allocation). But in his plea allocation he admitted to having the gun. Also Kevin Harris testified at Grand Jury (defendant's) that Adams has the gun. Also that Adams admitted to him he was the one who fired it.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Michael Mansion

(b) At arraignment and plea Michael Mansion

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- (c) At trial Michael Mansion
- (d) At sentencing Michael Mansion
- (e) On appeal Marcy F Flores, Warrensburg N.Y.
- (f) In any post-conviction proceeding Marcy F Flores
- (g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment or on more than one indictment, in the same court and at the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

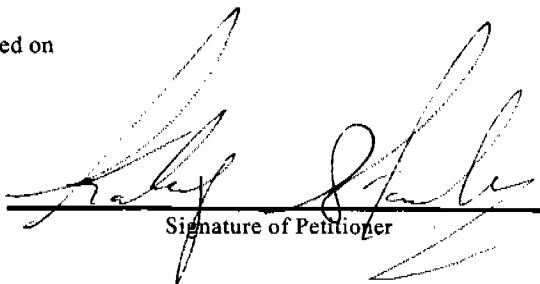
Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

12/11/06
Date


Signature of Petitioner